

## DETAILED ACTION

### *Election/Restrictions*

Claims 1, 11, 41, 43, 60, and 62 are allowable. The restriction requirement between species I-V, as set forth in the Office action mailed on 08 August 2006, and between species 1-3, as set forth in the Office action mailed on 29 January 2009, have been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.** Claims 8, 10, 35, 47-49, 52, and 57, directed to a standoff feature adapted to contact the work surface along a line, an orienting fixture, or a shelf are no longer withdrawn from consideration because the claim(s) requires all the limitations of an allowable claim.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Michael Taylor on 12 November 2009.

The application has been amended as follows:

**Claim 1 (lines 4-7, 15):** a deformable substantially spherical socket formed of a ~~[[plurality of]]~~ socket member~~[[s for]]~~ engaging ~~[[with]]~~ the spherical portion including at least one relief opening in a portion of the spherical socket allowing deformation of the spherical socket; and a substantially planar portion wherein the ~~[[plurality of]]~~ socket member~~[[s]]~~ of the spherical socket extends...the socket member~~[[s]]~~ to position...

**Claim 2:** cancel claim.

**Claim 6 (lines 1 and 4):** The alignment device of claim ~~[[2]]~~ 1...wherein the socket member includes a plurality of socket members; wherein one relief opening is between each of the plurality of socket members.

**Claim 11 (lines 10 and 12):** at least ~~[[one]]~~ two relief openings...wherein the relief openings...

**Claim 16 (lines 1-2):** wherein the at least ~~[[one]]~~ two relief openings include~~[[s]]~~ three relief openings...

**Claim 19:** cancel claim.

**Claim 20:** cancel claim.

**Claim 38 (lines 1-3):** The alignment device of claim [[2, wherein the at least one relief opening includes at least three relief openings]] 6, wherein the relief openings are defined as a complete passage between at least two of the plurality of socket members...

**Claim 41 (lines 6, 9, 12, 19-21):** ...a deformable socket [[for]] mating with the spherical portion...at least two standoff features each having a standoff [[off]] feature...each of the at least two standoff features define a passage through which [[the]] an attaching device...wherein the base defines a groove at a perimeter operable to hold the elastomeric band [[such that a portion of the elastomeric band extends into the passage]].

**Claim 43 (lines 26-30):** a plurality of standoff features extending from the base unit, wherein the standoff features [[is]] are adapted to directly engage a work surface near an opening in the work surface; a passage defined through each of the standoff features; an attaching device operable to pass through [[the]] each passage...

**Claim 45 (line 7):** ...the at least two [[fingers]] individual members move...

**Claim 46 (lines 2-3):** ...an elastomeric band [[extending across the passage and is]] fit within a groove defined by...

**Claim 47 (lines 1-3):** ...wherein the [[at least one]] plurality of standoff features each include[[s]] a shelf extending into the [[at least one of the]] plurality of standoff features...

**Claim 50:** cancel claim.

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**Claim 52 (lines 2-4):** ...a passage defined by each of the plurality of standoff features; wherein each of the plurality of standoff features extend[[s]] from a first...

**Claim 53 (lines 1-2):** wherein each of the plurality of standoff features extend[[s]] from...

**Claim 55:** cancel claim.

**Claim 56:** cancel claim.

**Claim 60 (lines 9-11, 19-20, 22-23, 28-29):** ...wherein [[a]] at least two relief openings [[is]] are defined as a complete separation [[from]] between an outer surface [[to]] and an inner surface ...a plurality of standoff features extending from the base unit, wherein the plurality of standoff features [[is]] are adapted to...a passage defined through each of the plurality of standoff features...an attaching device operable to pass through each [[the]] passage...wherein the retaining force applying member includes an elastomeric band [[extending across the passage and is]] fit within a groove defined by...

**Claim 62 (entire claim):** [[The alignment device of claim 1, further comprising:]] An alignment device, comprising:

a longitudinal guide portion, having a longitudinal opening including a guide axis;

a spherical portion coupled to an end of the longitudinal guide portion;

a base unit, including:

a deformable substantially spherical socket engaging the spherical portion; and

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a substantially planar portion wherein the deformable spherical socket extends from a first side of the substantially planar portion; and an actuating device surrounding and engaging an outer perimeter of the spherical socket, wherein the actuating device is not in direct contact with the spherical portion;

a number of standoff features attached to the base unit, wherein the standoff features are adapted to directly contact a skull of a subject adjacent to an opening in the skull, wherein the number of standoff features attached to the base unit extend from a second side of the substantially planar portion to position the substantially planar portion a distance away from the skull; and

a retaining force applying member that is an elastomeric band [[extending across the passage and is]] fit within a groove defined by an external perimeter of the base unit.

## **EXAMINER'S STATEMENT OF REASONS FOR ALLOWANCE**

### ***Allowable Subject Matter***

Claims 1, 3, 5, 6, 8-12, 14-16, 35-39, 41, 43-49, 52-54, and 57-62 are allowed. The following is an examiner's statement of reasons for allowance: The prior art fails to disclose or suggest, in combination with other limitations in the claims, a deformable socket substantially spherical socket formed of a socket member including at least one relief opening allowing deformation of the spherical socket, an actuating device surrounding and engaging an outer perimeter of the spherical socket and not in direct contact with the spherical portion, and/or an elastomeric band operable to retaining the attaching devices

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near a passage in the standoff features, wherein the base defines a groove at a perimeter operable to hold the elastomeric band. There is no reason to modify Henderson with the relief openings of Mowlai-Ashtiani, since Henderson's socket is not deformed during use.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELANIE TYSON whose telephone number is (571)272-9062. The examiner can normally be reached on Monday through Friday 7-7 (max flex).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on (571) 272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-

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9199 (IN USA OR CANADA) or 571-272-1000.

Melanie Tyson /M. T./  
Examiner, Art Unit 3773  
November 16, 2009

/(Jackie) Tan-Uyen T. Ho/  
Supervisory Patent Examiner, Art Unit 3773